

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ARTHUR L. FOSTER,

Plaintiff,

v.

Case No. 17-CV-990-JPS

BRIAN FOSTER, LAURA ALSUM,
BRADLEY HOMPE, NURSE WHITE,
NURSE MARCHANT, DR. MANLOVE,
and JON LITSCHER,

Defendants.

ORDER

Plaintiff, who is incarcerated at Waupun Correctional Institution, filed a *pro se* complaint under 42 U.S.C. § 1983, alleging that his civil rights were violated. (Docket #1). Plaintiff also filed a motion to proceed *in forma pauperis*, (Docket #2), and has been assessed and paid an initial partial filing fee of \$8.30. 28 U.S.C. § 1915(b)(4). His motion to proceed *in forma pauperis* will be granted.

Next, the Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

The Court is unable to screen Plaintiff’s Complaint as currently filed because it is missing at least one page of allegations. The Complaint is

numbered, and it proceeds from page two to page four without a page three. Plaintiff's Complaint must contain all claims alleged against all defendants in one complete document.

The Court will permit Plaintiff the opportunity to correct this deficiency in his pleading. If he chooses to offer an amended complaint, Plaintiff must do so no later than **May 4, 2018**. The amended complaint supersedes the prior complaint and must be complete in itself without reference to the original complaint. *See Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056–57 (7th Cir. 1998). In *Duda*, the Seventh Circuit emphasized that in such instances, the “prior pleading is in effect withdrawn as to all matters not restated in the amended pleading[.]” *Id.* at 1057 (citation omitted); *see also Pintado v. Miami-Dade Housing Agency*, 501 F.3d 1241, 1243 (11th Cir. 2007) (“As a general matter, ‘[a]n amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader’s averments against his adversary.’”) (quoting *Dresdner Bank AG, Dresdner Bank AG in Hamburg v. M/V OLYMPIA VOYAGER*, 463 F.3d 1210, 1215 (11th Cir. 2006)). If an amended complaint is received, it will be screened pursuant to 28 U.S.C. § 1915A.

Accordingly,

IT IS ORDERED that Plaintiff’s motion for leave to proceed without prepayment of the filing fee (*in forma pauperis*) (Docket #2) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that on or before **May 4, 2018**, Plaintiff shall file an amended pleading curing the defects in the original complaint as described herein;

IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall collect from his institution trust account the balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to Plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Plaintiff is transferred to another institution, county, state, or federal, the transferring institution shall forward a copy of this Order along with Plaintiff's remaining balance to the receiving institution;

IT IS FURTHER ORDERED that a copy of this order be sent to the officer in charge of the agency where Plaintiff is confined; and

IT IS FURTHER ORDERED that, pursuant to the Prisoner E-Filing Program, Plaintiff shall submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the Court.¹ If Plaintiff is no longer incarcerated at a Prisoner E-Filing institution, he will be required to submit all correspondence and legal material to:

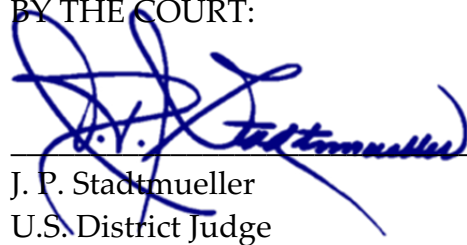
Office of the Clerk
United States District Court
Eastern District of Wisconsin
362 United States Courthouse
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

¹The Prisoner E-Filing Program is in effect at Columbia Correctional Institution, Dodge Correctional Institution, Green Bay Correctional Institution, Oshkosh Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility.

Plaintiff is further advised that failure to make a timely submission may result in the dismissal of this action for failure to prosecute. In addition, the parties must notify the Clerk of Court of any change of address. Failure to do so could result in orders or other information not being timely delivered, thus affecting the legal rights of the parties.

Dated at Milwaukee, Wisconsin, this 4th day of April, 2018.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge